

05-51 BUSTILLO V. JOHNSON

DECISION BELOW: UNPUBLISHED

LOWER COURT CASE NUMBER: 042023

QUESTIONS PRESENTED

1. Whether, contrary to the International Court of Justice's interpretation of the Vienna Convention on Consular Relations, April 24, 1963, 21 U.S.T. 77, 100-101, state courts may refuse to consider violations of Article 36 of that treaty because of a procedural bar or because the treaty does not create individually enforceable rights.
- ~~2. Whether, in deciding if improperly withheld exculpatory evidence might have affected the outcome of the original trial and thus is "material" under *Brady v. Maryland*, 373 U.S. 83 (1963), a court may (a) refuse to consider the strength or weakness of the prosecution's evidence at the original trial; (b) analyze the potential effect of the withheld evidence on an item by item basis, rather than in the aggregate; (c) substitute its judgment for the likely effect on the jury by attempting to reconcile the exculpatory evidence with the original verdict; and (d) give determinative weight to the testimony of trial counsel that he was unsure whether the improperly withheld evidence would have affected the outcome of the trial.~~
- ~~3. Whether the Supreme Court of Virginia's refusal to hear petitioner's *Brady* claim on the ground that he did not file the transcripts of a hearing held during habeas corpus proceedings is an adequate and independent state ground of decision that precludes this Court's review of such claim.~~

Cert. Granted 11/7/05

Limited to Question 1 presented by the petition.

Consolidated with 04-10566 and a total of one hour allotted for oral argument.

04-10566 SANCHEZ-LLAMAS V. OREGON

DECISION BELOW: 108 P.3d 573 (Ore. 2005)

LOWER COURT CASE NUMBER: 996212FE

QUESTIONS PRESENTED

1. Does the Vienna Convention convey individual rights of consular notification and access to a foreign detainee enforceable in the Courts of the United States?
2. Does the state's failure to notify a foreign detainee of his rights under the Vienna Convention result in the suppression of his statements to

police?

~~3. Do police violate an intoxicated foreign detainee's rights under the Fifth and Fourteenth Amendments to the United States Constitution when they obtain custodial statements from that detainee after he has been beaten, continually questioned for 11 hours and not informed of his rights to consular notification and access?~~

Cert. Granted 11/7/05

Limited to Questions 1 and 2 presented by the petition.

Consolidated with 05-51 and a total of one hour allotted for oral argument.